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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 RICHARD L. GRUBER,

9 Plaintiff,

10 v.

11 KAREN GEDNEY, et al.,

12 Defendants.

Case No. 3:15-cv-00543-RCJ-CBC

ORDER AND JUDGMENT

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14 The Court has before it Defendants', Dr. Karen Gedney and Dr. Dana Marks Motion for a
15 Directed Verdict. Defendants also Move this Court to designate this matter as Plaintiff's first strike
16 under the Prison Litigation Reform Act (PLRA) as a frivolous lawsuit. For reasons set forth below, the
17 Court will grant the Defendants' motions.

18 The Plaintiff, Richard Gruber, is an inmate incarcerated by the Nevada Department of
19 Corrections. He filed this civil rights action under 42 U.S.C. § 1983 and the Eighth Amendment to the
20 United States Constitution. He is suing the Defendants, Dr. Karen Gedney and Dr. Dana Marks, who
21 were physicians at the Northern Nevada Correctional Center. The Plaintiff claims Dr. Gedney and Dr.
22 Marks were deliberately indifferent to his serious medical need of Parkinson's disease. He claims that
23 Dr. Gedney and Dr. Marks refused to provide him with any treatment for Parkinson's disease, and told
24 him it was because the cost of treating the Plaintiff would have jeopardized their employment with the
25 Nevada Department of Corrections. The Court denied the Defendants' Motion for Summary Judgment
26 finding that, based on the record before the court, a reasonable jury could find that Dr. Gedney and Dr.
27 Marks were deliberately indifferent to plaintiff's medical needs. This was due to Plaintiff's assertion
28 that the doctors refused to treat him due to the cost of the treatment. (ECF No. 113).

1 At the Jury Trial on this matter, August 12, 2019, Dr. Gedney and Dr. Marks denied these
2 allegations. They asserted the Plaintiff does not have Parkinson's disease. They testified, under oath,
3 the Plaintiff suffers from a neurological condition similar to Parkinson's disease and that they treated
4 his condition appropriately. They also testified, under oath, that they never refused to treat Plaintiff.
5 Finally, Dr. Gedney and Dr. Marks both testified that they have never been concerned that the cost on
6 any inmate's treatment would jeopardize their employment.

7 On the second day of the trial, Plaintiff refused to testify on his own behalf. The Court advised
8 him that his refusal to testify would be detrimental to his case. Plaintiff rested without testifying or
9 providing any support for his assertion that the physicians failed to treat him for Parkinson's disease due
10 to the cost of the treatment. He also failed to provide any evidence that he was ever diagnosed with
11 Parkinson's disease, or that the NDOC failed to provide adequate treatment for his medical condition.

12 When the Plaintiff rested without supporting his claim, the Defendants made a Motion for
13 Directed Verdict under FRCP Rule 50. The Court granted the Motion after finding that the Plaintiff
14 provided no evidence in support of his claim that he has Parkinson's disease, that the NDOC and the
15 Defendants violated his rights by denying treatment due to cost or that the Defendants knowingly denied
16 him medical care. The Court further found that the Plaintiff's claims were frivolous and brought to the
17 Court in bad faith. Accordingly, it is hereby

18 ORDERED that Defendants', Dr. Karen Gedney and Dr. Dana Marks, Motion for Entry of
19 Directed Verdict is GRANTED; it is

20 FURTHER ORDERED that the Court DECLARES that plaintiff violated the terms of the Prison
21 Litigation Reform Act (PLRA) by filing a frivolous lawsuit and this matter is designated as his first
22 strike under the PLRA; it is

23 FURTHER ORDERED that this Court retains jurisdiction over any matter pertaining to this
24 judgment; and it is

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1 FURTHER ORDERED that this case is DISMISSED and the Clerk of the Court shall remove it
2 from the docket of the Court. This is a final appealable order. See FED. R. APP. P. 4(a).

3 IT IS SO ORDERED.

4 DATED THIS September 12, 2019

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6 ROBERT C. JONES
7 United States District Judge
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9 SUBMITTED BY:
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